

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

KAYLA GORE; JAIME COMBS; L.G.; and
K.N.,

Plaintiffs,

v.

WILLIAM BYRON LEE, in his official
capacity as Governor of the State of
Tennessee; and LISA PIERCEY, in her
official capacity as Commissioner of the
Tennessee Department of Health,

Defendants.

Case No. 3:19-CV-00328

DISTRICT JUDGE RICHARDSON
MAGISTRATE JUDGE HOLMES

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure Rule 56, this Court's Local Rules, and the orders of this Court, Plaintiffs Kayla Gore, Jaime Combs, L.G., and K.N (collectively, "Plaintiffs"), by and through their undersigned attorneys, hereby move for summary judgment on their claims against Defendants William Byron Lee, in his official capacity as Governor of the State of Tennessee; and Lisa Piercey, in her official capacity as Commissioner of the Tennessee Department of Health.

As fully set forth in the accompanying Memorandum of Law, Defendants' policy and practice prohibiting the correction of sex designation on a transgender person's birth certificate, in a manner consistent with the person's gender identity, based on Tennessee's Vital Records Act (the "Birth Certificate Policy"), violates the equal protection guarantee of the Fourteenth Amendment to the U.S. Constitution; the fundamental rights to privacy, individual dignity, liberty, and autonomy protected by the Fourteenth Amendment; and the right to freedom of speech under

the First Amendment. The Defendants' administration and enforcement of Tennessee's Birth Certificate Policy has resulted in impermissible discrimination against Plaintiffs on the basis of their sex and transgender status, prohibited an entire class of people from exercising their fundamental rights to informational and decisional privacy, infringed on their fundamental rights to individual dignity, liberty, and autonomy, and impermissibly compelled transgender persons, including Plaintiffs, to publicly identify themselves with a sex inconsistent with who they are.

This motion is based on the contemporaneously filed statement of undisputed material facts and memorandum of law; the declarations of the plaintiffs' experts, Randi Ettner, Ph.D., and Shayne Sebold Taylor, M.D., attached to the memorandum as Exhibits 1 and 2; the declarations of the plaintiffs, Kayla Gore, Jaime Combs, L.G., K.N., attached to the memorandum as Exhibits 3-6; the contemporaneously filed declaration of Omar Gonzalez-Pagan; and all the pleadings and papers on file, as well as any argument the Court may consider.

The Court should grant Plaintiffs' Motion for Summary Judgment; declare Tennessee's Birth Certificate Policy unconstitutional; permanently enjoin Defendants from enforcing the Birth Certificate Policy; order Defendants to permit corrections of birth certificates to accurately reflect their sex, consistent with their gender identity, without using a strikeout line so that no record of the correction appears on the face of the certificate; order Defendants to immediately issue corrected birth certificates to Plaintiffs accurately reflecting their sex, consistent with their gender identity, without using a strikeout like so that no record of the correction appears on the face of the certificate; and award Plaintiffs reasonably attorneys' fees, costs and expenses and other relief the Court deems just and proper.

Dated: March 9, 2020

Omar Gonzalez-Pagan*
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
120 Wall Street, 19th Floor
New York, NY 10005-3919
Telephone: (212) 809-8585
Facsimile: (212) 809-0055
ogonzalez-pagan@lambdalegal.org

Tara L. Borelli*
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
730 Peachtree Street NE, Suite 640
Atlanta, GA 30318-1210
Telephone: (404) 897-1880
Facsimile: (404) 897-1884
tborelli@lambdalegal.org

Sasha Buchert*
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
1776 K Street NW, Suite 722
Washington, DC 20006
Telephone: (202) 804-6245
sbuchert@lambdalegal.org

* Admitted *pro hac vice*.

Respectfully submitted,

s/John T. Winemiller
John T. Winemiller
MERCHANT & GOULD P.C.
800 S. Gay Street, Suite 2150
Knoxville, TN 37929
Phone: (865) 380-5960
Facsimile: (612) 332-9081
JWinemiller@merchantgould.com

Gavin R. Villareal*
Maddy Dwertman*
BAKER BOTTS L.L.P.
98 San Jacinto Boulevard, Suite 1500
Austin, TX 78701-4078
Phone: (512) 322-2500
Facsimile: (512) 322-2501
gavin.villareal@bakerbotts.com
maddy.dwertman@bakerbotts.com

Brandt Thomas Roessler*
BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, NY 10112-4498
Phone (212) 408-2500
Facsimile: (212) 408-2501
brandt.roessler@bakerbotts.com

Kathryn S. Christopherson*
BAKER BOTTS L.L.P.
1001 Page Mill Rd., Bldg. One, Suite 200
Palo Alto, CA 94304-1007
Phone: (650) 739-7500
Facsimile: (650) 739-7699
kathryn.christopherson@bakerbotts.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically using the Court's CM/ECF system, which provides electronic notice of the filing to all counsel of record, including:

Herbert H. Slatery III
Attorney General and Reporter

Dianna Baker Shew
Senior Assistant Attorney General
dianna.shew@ag.tn.gov
Sara E. Sedgwick
Senior Assistant Attorney General
sara.sedgwick@ag.tn.gov
PO Box 20207
Nashville, TN 37202

This 9th day of March, 2020.

s/John T. Winemiller
John T. Winemiller